

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

PAUL AHMANN,

Plaintiff,

v.

WASHINGTON STATE
DEPARTMENT OF
TRANSPORTATION, an agency of
the State of Washington,

Defendant.

NO. 2:23-CV-0140-TOR

ORDER DENYING DEFENDANT'S
MOTION TO DISMISS

BEFORE THE COURT is Defendant's Motion to Dismiss Amended Complaint (ECF No. 10). This matter was submitted for consideration without oral argument. The Court has reviewed the record and files herein, the completed briefing, and is fully informed. For the reasons discussed below, Defendant's Motion to Dismiss Amended Complaint (ECF No. 10) is **denied**.

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BACKGROUND

This matter relates to Washington State Department of Transportation's (WSDOT) termination of Plaintiff's employment following the determination that Plaintiff's religious exemption from the COVID-19 vaccine could not be granted for failure to provide sufficient information regarding a sincerely held religious belief. *See* ECF No. 8. On March 28, 2023, Plaintiff filed a Complaint in Whitman County Superior Court. ECF No. 1-3. On May 8, 2023, Defendant removed the action to this Court. ECF No. 1. Plaintiff alleges Defendant failed to provide reasonable accommodations for his religious beliefs in violation of Title VII and Washington's Law Against Discrimination (WLAD). ECF No. 8 at 22, ¶¶ 6.1–6.13. The following facts are drawn from Plaintiff's First Amended Complaint and are accepted as true for the purpose of this motion. *Chavez v. United States*, 683 F.3d 1102, 1108 (9th Cir. 2012).

At all relevant times, Mr. Ahmann worked for Colfax Maintenance Shed in Colfax, Washington. ECF No. 8 at 8, ¶ 5.5. Mr. Ahmann is a practicing Catholic who believes that all life is sacred from the moment of conception to natural death and that abortion is a sin. *Id.* at 6, ¶ 5.2. Mr. Ahmann's Catholic faith compels him to abstain from direct or indirect cooperation in abortion, which he views as the killing of innocents. *Id.* Mr. Ahmann's religious beliefs prevented him from receiving the COVID-19 vaccination because the vaccinations at the time

1 employed cell lines derived from aborted fetuses. *Id.* Mr. Ahmann has never
2 knowingly taken a vaccine derived from aborted fetuses. *Id.* at 7, ¶ 5.4.

3 On February 29, 2020, Governor Jay Inslee issued the first Proclamation
4 related to COVID-19, declaring a State of Emergency in Washington. *Id.* at 10, ¶
5 5.10. On August 9, 2021, Governor Inslee issued a Proclamation that required all
6 state employees to be fully vaccinated by October 18, 2021. *Id.* at 11, ¶ 5.11.

7 In response, the Washington Secretary of Transportation required all
8 WSDOT employees to be vaccinated. *Id.*, ¶ 5.12. The Proclamation purportedly
9 allowed for religious exemptions to the vaccine requirement. *Id.*, ¶ 5.13. WSDOT
10 provided its employees who wished to request a religious accommodation with a
11 form titled: Religious Exemption Request Form Proclamation 21-13 (vaccine
12 requirement). *Id.* at 18, ¶ 5.24. This form asked employees if (a) they had a
13 sincerely held religious belief that prevented them from receiving the COVID-19
14 vaccine and (b) to affirm or agree that they received a vaccine as an adult. *Id.*

15 On August 24, 2021, Mr. Ahmann executed this Religious Exemption form.
16 *Id.* at 18, ¶ 5.25. On August 25, 2021, WSDOT provided Mr. Ahmann with a
17 second form titled: Religious Exemption Request Form-Additional Questions
18 Proclamation 21-14 (vaccine requirement). *Id.*, ¶ 5.26. This form asked Mr.
19 Ahmann to explain how the COVID-19 vaccine conflicts with his strongly held
20 religious beliefs, and inquired how long he held his beliefs, whether his beliefs

1 include objecting to other vaccines, and whether he received a vaccine in the past.

2 *Id.* at 18–19. Mr. Ahmann replied:

3 I will not have the blood of any baby on my hands. Any vaccine that
4 was brought about by the use of baby parts in the research and
5 development process or by using them in the ingredients will not be
used on me with my knowledge. It is an evil selfish process which
devalues human life and puts monetary value on babies.

6 ECF No. 8 at 19, ¶ 5.27.

7 On September 14, 2021, WSDOT informed Mr. Ahmann that his exemption
8 request was denied, explaining that he “did not provide sufficient information to
9 enable a determination as to whether his request for a religious accommodation
10 was based on a sincerely held religious belief.” *Id.* at 20, ¶ 5.30.

11 On October 18, 2021, Mr. Ahmann was terminated due to his failure to
12 receive the COVID-19 vaccination. *Id.* at 21, ¶ 5.32.

13 DISCUSSION

14 I. Motion to Dismiss Standard

15 Federal Rule of Civil Procedure 12(b)(6) provides that a defendant may
16 move to dismiss the complaint for “failure to state a claim upon which relief can be
17 granted.” A motion to dismiss for failure to state a claim will be denied if the
18 plaintiff alleges “sufficient factual matter, accepted as true, to ‘state a claim to
19 relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)
20 (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).

1 While the plaintiff's "allegations of material fact are taken as true and
2 construed in the light most favorable to the plaintiff" the plaintiff cannot rely on
3 "conclusory allegations of law and unwarranted inferences ... to defeat a motion to
4 dismiss for failure to state a claim." *In re Stac Elecs. Sec. Litig.*, 89 F.3d 1399,
5 1403 (9th Cir. 1996) (citation and brackets omitted). That is, the plaintiff must
6 provide "more than labels and conclusions, and a formulaic recitation of the
7 elements." *Twombly*, 550 U.S. at 555.

8 When deciding, the Court's review is limited to the complaint, documents
9 incorporated into the complaint by reference, and judicial notice. *Metzler Inv.*
10 *GMBH v. Corinthian Colleges, Inc.*, 540 F.3d 1049, 1061 (9th Cir. 2008) (citing
11 *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308, 322 (2007)). The Court
12 takes judicial notice of government records as well as documents incorporated into
13 the First Amended Complaint. *See* Fed. R. Evid. 201; *Metzler*, 540 F.3d at 1061.

14 II. Failure to Accommodate

15 Defendant moves to dismiss Plaintiff's claims on the grounds that Plaintiff
16 failed to provide WSDOT with sufficient information to determine whether his
17 objections were based on a sincerely held religious belief. ECF No. 10 at 12.

18 Title VII prohibits employers from discharging or otherwise discriminating
19 against an employee due to the employee's religion. 42 U.S.C. § 2000e-2(a).
20 "Religion" is defined as "all aspects of religious observance and practice, as well

1 as belief[.]” 42 U.S.C. § 2000e-2(j). Title VII claims may be brought under
2 disparate treatment or disparate impact theories, the former of which is based on 42
3 U.S.C. § 2000e-2(a)(1). *E.E.O.C. v. Abercrombie & Fitch Stores, Inc.*, 575 U.S.
4 768, 771 (2015).

5 To state a failure to accommodate religion claim, a plaintiff must plausibly
6 allege (1) they have a bona fide religious belief, the practice of which conflicts
7 with an employment duty; (2) they informed the employer of the belief and
8 conflict; and (3) the employer subjected them to an adverse employment action
9 because of the inability to fulfill the employment duty. *Peterson v. Hewlett-*
10 *Packard Co.*, 358 F.3d 599, 606 (9th Cir. 2004). The requirements to state such a
11 claim under the WLAD are substantially similar to those under Title VII. *See*
12 *Kumar v. Gate Gourmet Inc.*, 180 Wash. 2d 481 (2014).

13 Both the Supreme Court and Ninth Circuit have cautioned against second-
14 guessing the reasonableness of an individual’s asserted religious beliefs. *Burwell*
15 *v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 725 (2014); *Bolden-Hardge v. Off. of*
16 *California State Controller*, 63 F.4th 1215, 1223 (9th Cir. 2023). While a court
17 need not accept a plaintiff’s conclusory assertions, “the burden to allege a conflict
18 with religious beliefs is fairly minimal.” *Bolden-Hardge*, 63 F.4th at 1223.

19 Here, Mr. Ahmann alleges he holds a sincerely held religious belief that he
20 claimed on the Religious Exemption form and he subsequently explained how his

1 beliefs conflict with the COVID-19 vaccine. ECF No. 8 at 18–19, ¶¶ 5.26–5.27;
2 *see id.* at 88–91. WSDOT argues Mr. Ahmann is only now claiming he is
3 Catholic, and that he did not provide that information when filling out the
4 Religious Exemption form. ECF No. 10 at 16. At the pleading stage, Mr.
5 Ahmann’s allegation that he had a sincerely held religious belief (and so claimed
6 on the Religious Exemption form) are taken as true. Mr. Ahmann has sufficiently
7 stated a failure to accommodate religion claim. WSDOT’s arguments are more
8 appropriate for a determination on the merits, at trial or on summary judgment.

9 **ACCORDINGLY, IT IS HEREBY ORDERED:**

10 Defendant’s Motion to Dismiss Amended Complaint (ECF No. 10) is

11 **DENIED.**

12 The District Court Executive is directed to enter this Order and furnish
13 copies to counsel.

14 DATED July 28, 2023.



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A handwritten signature in blue ink that reads "Thomas O. Rice".

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THOMAS O. RICE
United States District Judge